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Letter dated 10 April 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached letter from the Permanent Representative of the Republic of Belarus to the United Nations (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-32940 (E) 300402

Annex

Letter dated 5 April 2002 from the Permanent Representative of Belarus to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

In the context of the activities of the Counter-Terrorism Committee, the Republic of Belarus attaches great importance to the issues of weapons trade regulation. In this regard, I would like to draw your attention to the special summary prepared by the Ministry of Foreign Affairs of Belarus on the export control system in Belarus (see enclosure).

I should be grateful if you would kindly arrange to have the present letter and its enclosure published as a document of the Security Council.

(*Signed*) Sergei **Ling**
Ambassador
Permanent Representative

Enclosure

Belarus export control system

Policy

Belarus adheres to international non-proliferation policies and fully complies with all the major non-proliferation agreements – Non-proliferation Treaty, Comprehensive Test Ban Treaty, Convention on Physical Protection of Nuclear Materials, Biological and Toxic Weapons Convention, Chemical Weapons Convention, it is also a full-fledged party to START-1 and Lisbon Protocol.

Belarus consistently supports international efforts towards non-proliferation of weapons of mass destruction and of their delivery vehicles. Belarus was first among the former USSR nuclear successor states to adhere to the NPT and to ratify START-1 and Lisbon Protocol. In 1995 Belarus signed the safeguard Agreement with the IAEA. In 1996 Belarus established the state system on accounting, control and physical protection of nuclear material. It also became the first nation to renounce the available nuclear weapons which had been withdrawn from its territory in November 1996. Belarus was the second country in the CIS to ratify the Chemical Weapons Convention. In May 2000 Belarus joined the Nuclear Suppliers Group.

Belarus export control system proved to be well-established and efficient. According to some foreign non-governmental experts Belarus is ranked third (after Russia and Ukraine) in the CIS in terms of development of export controls.

Legal basis

The Law on Export Control of 1998. This law is a kind of framework law which stipulates general provisions and regulations. It includes the export controls objectives, principles, objects, authorities, as well as the principles of interagency co-ordination. The law gives authority to impose criminal and/or civil penalties for violations in this field, but protects the rights of exporters or any entity or natural person involved.

The Governmental Decree No. 27 "On Improving Control Over Transfer of Specific Goods (Technologies and Services) Across the Customs Border". In the one package with this order there are two regulations on the licensing and on the use checks.

The term "specific goods" covers dual-use goods and technologies, weapons of mass destruction and goods, technologies and services used for their production, arms, military equipment and weapons-related items, or, in other words, any strategic goods or defense articles.

The lists of the controlled items were subsequently adopted according to the Governmental Decree No. 27 (1998). Six of them are now fully correspondent or identical to those of multilateral export control regimes (2 NSG control lists,

2 WA control lists, 1 MTCR control list, 2 AG lists). In addition, there is one more list on cryptography devices and tools for secret receipt of information.

Organization

The top decision and policy-making body with respect to export controls is the Interagency Commission on Military-Technical Cooperation and Export Controls under the National Security Council. All interested agencies and ministries (Ministry of Foreign Affairs, Ministry of Defense, State Security Committee, Customs) are represented in the Commission by their executives. The Commission determines the export control policy and principally decides on the issuance of the export licenses.

The Ministry of Foreign Affairs is the primary player in export controls. It determines the export/import policy and issues licenses. The following three departments are involved in export controls: i) Export Control Division (ECD), ii) Department of International Security and Arms Control (DISAC), and iii) Department of International Organizations (DIO). ECD has the licensing authority. DISAC deals with policy issues. And DIO evaluates contracts with respect to international sanctions and obligations.

In export controls MFA cooperates with other governmental agencies. The key role is, of course, played by the Customs administration who does the practical control over strategic and military exports. The Export Control Division of the State Customs Committee determines the policy while the customs offices check the paperwork and cargo.

According to the Governmental Decree No.27 (1998) all interested ministries and agencies (Ministry of Defense, State Security Committee, Ministry of Economics, Ministry of Industry, Academy of Sciences, Nuclear Safety Department, Ministry of Health) have established their respective export control units.

Licensing

Belarus has one licensing order for all controlled items. The responsible authority as regards issuing of licenses is now the Ministry of Foreign Affairs. MFA consults the interested ministries and agencies depending on the type of goods so that political sensitivity and proliferation concerns are duly considered before a decision is made. As a rule, Ministry of Defense, State Security Committee and Academy of Sciences review most applications. As a matter of licensing decision, import and end-user certificates from an authorized state organ are always required before a license application can be processed. Near 100 licenses are reviewed each year with few denials.

Criteria

According to the Article 3 of the Law the export control is carried out for the purposes of ensuring Belarus national security and economic interests, fulfilling its obligations under international agreements and supporting international non-proliferation efforts with respect to weapons of mass destruction and conventional weapons.

The interested ministries and agencies apply their criteria with regard to the licensing decision as a part of their export control authority. For example, MOD considers an importing country military policy and situation, threat which a particular shipment might have to the security or defense interests of Belarus and our allies, etc. MFA, on its part, takes into account an importing country political and humanitarian situation, UN, OSCE and other sanctions, obligations under international agreements and arrangements, risks of undesirable re-export, and economic aspects.

It is planned to specify more detailed criteria using EU Code of Conduct and OSCE-encouraged principles to incorporate some into national legislation.

End-use control

The newly-adopted law in addition to standard procedures includes a new authority to conduct pre-license and post-shipment end-use checks, including on-site visits. According to the law the Government has developed the end-use control order.

Wherever possible, the staff of the Belarus diplomatic missions assist in collecting the necessary information on end-user. The Belarus Government, on its part, issues import certificates for imported goods and checks domestic end-use of such goods.

"In-house" control

To foster sense of individual responsibility the due attention is paid by the Government to establishing the "in-house" control. The Paragraph 7 of the Governmental Order suggests that the executives of all the companies and enterprises dealing with specific goods set up export control cells of at least 2 persons. Up to date those cells have been established by all interested enterprises.

The licensing authority – MFA – pursues the open door policy and maintains individual contacts with each and every exporter. All manufactures and exporters are invited to contact MFA if any problem or concern occurs.

Penalties

The current criminal code imposes strict penalties for the illicit transfer/smuggling of weapons and weapon-related goods. There are also newly-adopted penalties for illicit transfer of items subject to export control or violation of export control procedures. Those violations are subject to 5-7 years imprisonment or a heavy fine.

Technical assessment

The customs offices around the country conduct technical checking of exported/imported goods. In case of any concern or suspicion the further technical expertise on dual-use goods, as well as relevant data and services, is done by the National Academy of Sciences through subordinated research institutes, technical institutions, and design bureaus. If an export control authority has requested such an assessment, the time allotted for license application review might be prolonged up to 30 days.

Transit

It is well-known that Belarus is a transit country for the in-land flows of goods between Russia and Western and Central Europe, as well as Baltic states and Ukraine. The Government takes every effort in ensuring that Belarus is not being used as a conduit for illegal transit of controlled items or transshipment of them to internationally-proscribed destinations.

For instance, a special license is required for every transit of nuclear-related items subject to the IAEA safeguards.

International cooperation

The Article 7 of the Law implies the exchange of information and cooperation with international organizations and foreign export control authorities as a part of the national export control system.

In export controls Belarus was consulted and assisted by US, Japan, Germany, UK, and Russia. For example, under the Nunn-Lugar legislation US rendered technical assistance to equip border check points with necessary control devices and to establish the computerized licensing system and database.

Belarus is a party to the CIS Minsk Agreement on Co-ordination in Export Controls. Additionally, in April 1999 Belarus and Russia have signed a bilateral agreement on a unified implementation of export controls. Every year Belarus and Russia hold the bilateral consultations on export controls.

Belarus representatives actively participate in the seminars organized within framework of international export control regimes.

Training

According to the Governmental Order the export control courses are to be arranged at the National Security Institute of the State Security Committee. The training center is now fully equipped and ready for operation. The courses will be attended by the governmental employees engaged in export controls and, later, by the industry representatives.